

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 946 OF 2019
IN
CRIMINAL APPLICATION NO. 447 OF 2019**

Niraj Gunwant Kakkad	...Applicant
Versus	
Taro Vazurani & Anr.	...Respondents

Mr. Ram Upadhyay, for applicant.

Mr. N.B. Patil, APP for Respondent/State.

Mr. Daljeet Singh Bhatia a/w. Mrs. Bhumika Shah for Respondent No. 2.

**CORAM : S. S. SHINDE, J
DATE : 27th June 2019**

P.C.

1. This application takes an exception to the order dated 15th June passed below Exhibit-22 by the 33rd Metropolitan Magistrate Court, Mumbai in CC No. 6510/SS/2017.

2. Learned counsel appearing for the applicant submit that, in compliance of order passed by this Court on 23rd April 2019 (Coram:- Mrs. Mridula Bhatkar, J.), present applicant i.e. accused went to the said Court, however, learned Metropolitan Magistrate was on leave and therefore, the applicant could not deposit Rs. 20,000/- as ordered by this Court by order dated 23rd April 2019. It is submitted that advocate who appeared before the Trial Court was not aware that the order passed by the High Court was uploaded on 24th April 2019 and therefore, while arguing before the Trial

Court it was stated by the Advocate that till 25th April 2019 order passed by this Court on 23rd April 2019 (Coram:- Mrs. Mridula Bhatkar, J.) was not uploaded on the website, therefore, learned advocate appearing for the applicant submits that applicant may be given an opportunity to deposit amount of Rs. 20,000/- and cross examine the complainant.

3. Learned counsel appearing for respondent submits that on 24th April 2019 order passed by this Court was uploaded on website. It is submitted that incorrect statement was made before the Trial Court that order was not uploaded till 25th April 2019. Therefore, learned counsel appearing for respondent submits that applicant deserves no sympathy and since there was no compliance of order passed by this Court on 23rd April 2019 (Coram:- Mrs. Mridula Bhatkar, J.), this application may be rejected. He further submits that, applicant is trying to prolong the pending case. He further informed this Court that on 10th July 2019 the pending case before the Trial Court is fixed for the arguments.

4. Upon appreciating rival contentions and the fact that order passed by this Court on 23rd April 2019 (Coram:- Mrs. Mridula Bhatkar, J.) was uploaded on website on 24th April 2019, it was not proper on the part of the advocate who appeared for applicant before the Trial Court to make incorrect statement that order was not uploaded. It was possible for the applicant to

deposit Rs. 20,000/- in the Registry of the concerned Court or directly send demand draft or pay the cost to the complainant, however, it appears that, applicant has not complied with the conditional order passed by this Court on 23rd April 2019 (Coram:- Mrs. Mridula Bhatkar, J.). The reasons assigned by the concerned Court in the impugned order are in consonance with the documents placed on record. I find considerable substance in the arguments of learned counsel appearing for respondent that the applicant is making an endeavor to prolong the hearing of the pending case. For the aforesaid reasons no interference is caused for in the impugned order. Hence, application stands rejected.

[S. S. SHINDE , J]